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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,320	12/29/2000	Andrew Rouse	042846-0313440	6988
52796	7590	05/22/2009	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			PAN, YUWEN	
c/o SUSAN TRADER				
1650 TYSONS BOULEVARD			ART UNIT	PAPER NUMBER
P.O. BOX 10500				
MCLEAN, VA 22102			2618	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* ANDREW ROUSE, QUINTON ZONDERVAN, THOMAS BENTLEY, TIMOTHY LAWSON, and CHRISTOPHER HEROT

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Application No. 09/750,320  
Technology Center 2600

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Mailed: May 22, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**APPEAL BRIEF, CLAIMS APPENDIX**

A review of the Appeal Brief filed October 16, 2008, reveals that claim(s) in the Claims appendix of the Appeal Brief are not consistent with the last Office Action. The Applicant filed an Amendment After Final on August 3, 2004, cancelling claims. An Advisory was not entered regarding this amendment. The Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007)* for details.

Specifically, claim 36 in the Claims appendix of the Appeal Brief is listed as (Cancelled). However, in the last Office Action, filed September 8, 2008, Claim 36 is listed as being rejected under 35 U.S.C. 103(a).

Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

**CONCLUSION**

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) correction of the Claims Appendix of the Brief filed October 16, 2008; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/alw

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